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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,290	03/29/2004	Kazumi Iida	FY.16880USIDV	2261

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EXAMINER

SWINEHART, EDWIN L

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,290

Applicant(s)

IIDA ET AL.

Examiner

Ed Swinehart

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-38 and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 33-38 and 42-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2005 has been entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 33-38 and 42-48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant claims the actuator being disposed apart from the engine body, yet fails to teach just how/where such is in fact mounted.

Without complete and adequate disclosure of the invention, one of ordinary skill in the art cannot make and/or use same.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 33,34,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rheault et al. in view of Wussow et al.

Rheault et al. discloses the claimed invention, including a steering sensor **310**, and electronic control system **300**, a watercraft speed sensor **320** and a throttle position sensor **330**. Rheault et al. fails to disclose a remotely positioned stepper motor for operating the throttle.

Wussow et al. teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a stepper motor throttle control to Rheault et al. as taught by Wussow et al.

Such a combination would have been desirable at the time of the invention so as to provide a compact motor assembly which provides little interference with other engine components.

Re "disposed apart", such fails to define any specific structure and/or arrangement so as to define over Rheault et al. as modified, as "disposed" is a broad term, not to be confused with "mounted", and as such fails to define over even the mounting of the actuator to the engine body itself, as such was inherently "disposed apart" therefrom immediately prior to application.

The examiner further considers the mounting location of a cable operated actuator an obvious design consideration, well within the level of skill of the ordinary routineer working in the art at the time of the invention. It is noted Applicant has not set forth any criticality for such a "disposed apart" mounting of the actuator.

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6. Claims 35,36,38 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rheault et al. in view of Wussow et al, as applied against claims 34 and 43 above, and further in view of Mukumoto.

Rheault et al. fails to disclose the storing of throttle position data within the ECM, however such is considered to have been notoriously old and well known in the art as evidenced by Mukumoto.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide stored values of various operating conditions within the ECM of Rheault et al. as is known in the art, and as taught by Mukumoto.

Such a combination would have been desirable at the time the invention was made so as to provide for efficient operation absent feedback.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rheault et al. in view of Wussow et al. and Mukumoto, as applied against claim 35 above, and further in view of in view of Bernier et al.

Rheault et al. fails to disclose a timer.

Bernier et al. teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a timer to Rheault et al. as taught by Bernier et al.

Such a combination would have been desirable at the time the invention was made so as to provide maintenance of control for a period of time after throttle is cut.

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8. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rheault et al. in view of Wussow et al. as applied to claims 33 and 42 above, and further in view of Kolberg.

Rheault et al. fails to disclose a notoriously old and well known throttle valve shaft pulley and cable arrangement.

Kolberg teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to attach cable to the shaft of Rheault et al. as taught by Kolberg.

Such a combination would have been desirable at the time of the invention so as to provide reliable and accurate control.

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's comments have been addressed above.


Applicant argues that Rheault et al. as modified fails to discuss the advantages of the mounting of the actuator apart from the engine body.

It is unclear to what advantages applicant is referring, as the specification is silent in this regard.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ed Swinehart
Primary Examiner
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